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REPORT OF THE SECRETARY-GENERAL ON THE WORK OF THE ORGANIZATION

THE SITUATION OF HUMAN RIGHTS IN ESTONIA AND LATVIA

Letter dated 1 December 1992 from the Permanent Representative of Latvia to the United Nations addressed to the Secretary-General

I have the honour to refer to a letter dated 26 September 1992 from the Chairman of the Supreme Council of Latvia, His Excellency Mr. Anatolijs Gorbunovs, addressed to you (A/47/476, annex). In that letter, Mr. Gorbunovs invited you to "use your good offices with the Under-Secretary-General for Human Rights and the Centre for Human Rights to expedite the dispatching of a fact-finding mission to Latvia by United Nations human rights experts" in order to investigate alleged human rights abuses in Latvia.

I wish to convey my sincere gratitude for your rapid response to the invitation extended by Mr. Gorbunovs, which resulted in sending a fact-finding mission to Latvia from 27 to 30 October 1992, led by the Director of the Centre for Human Rights, Mr. Ibrahima Fall. In addition, I wish to thank you for making available to the Permanent Mission of Latvia the "Summary of the report on a fact-finding mission to Latvia" (see annex). The fact-finding mission to Latvia, I believe, was of the type envisioned by you in your report "An Agenda for Peace", in particular the part of the report on preventive diplomacy (see A/47/277-S/24111).

I should be grateful if you would have the text of the present letter and its annex circulated as an official document of the General Assembly under agenda items 10 and 149.

(Signed) Aivars BAUMANIS
Permanent Representative
of the Republic of Latvia
to the United Nations

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ANNEX

Summary of the Report on a

Fact-Finding Mission to Latvia

1. Upon the invitation of the Latvian authorities, the Secretary-General sent to Latvia, on 27-30 October 1992, a fact-finding mission headed by Mr. Ibrahima Fall, Director of the Center for Human Rights, to investigate alleged discriminatory practices against minorities in that country.

2. The mission met with Latvian officials, including the Head of State, Chairman Anatolijs Gorbunovs, Deputy Chairman, Prime Minister, many ministers, chairmen of parliamentary commissions, representatives of parliament factions, the chairman of the Supreme Court, members of the Bar Association, representatives of different minority groups and associations, including representatives of the Russian minority, representatives of religious confessions, lawyers, trade union leaders, and editors of Latvian mass media, the Dean of the Diplomatic Corps, as well as the Russian Ambassador. The mission received about 800 petitions during meetings with representatives of the minorities and in the streets of Riga.

3. The mission considered and analyzed a number of relevant legislative acts as well as government and administrative instructions related to the rights of minorities.

The Current Situation

4. As a result of a systematic policy of transfer of population implemented during 50 years of Soviet occupation, today, of approximately 2.7 million of total Latvian population, only 52% are Latvians, while, in 1935, ethnic Latvians made up 75.5% of the population.

5. There is anxiety among the national minorities. Their representatives expressed their concern for the future status and the civil, political and economic rights of the non-ethnic population in Latvia, as well as for the present draft law on citizenship, the application of the language law and the registration of Latvia's inhabitants.

(a) Citizenship

6. On 15 October 1991, the Supreme Council adopted a resolution on the renewal of the Republic of Latvia citizens' rights and fundamental principles of naturalization, under which citizenship is recognized only to those who were citizens on 17 June 1940 and their descendants. Other residents would acquire citizenship by naturalization following the adoption of a

citizenship law, the draft of which is still under consideration by the Parliament.

7. According to the draft law, certain categories of inhabitants closely linked to the former Soviet army, police and security service would be permanently excluded from acquiring Latvian citizenship through naturalization. Other permanent residents of Latvia may acquire citizenship through naturalization, according to yearly quotas to be established by Parliament. The basic conditions for naturalization are: 16 years of permanent residence (the draft law includes an alternative provision that would require 10 years of permanent residence, instead of 16 years); mastery of the Latvian language at a conversational level, to be established through examinations; a loyalty oath, knowledge of the basic principles of the Constitution and renunciation of (expatriation from) previous citizenship.

8. While the residence requirement, as envisaged in the draft law, may not be seen as discriminatory in nature, much would depend on how the requirement is understood in its practical application. There is fear among the non-Latvian population that many permanent residents may, in fact, be disqualified, for example because of temporary sojourn abroad, including for study purposes. Another cause of anxiety is that a large number of persons may be disqualified on the ground that their actual domicile has been in houses owned by the Ministry of Defence of the earlier State power, or in accommodations considered "temporary", irrespective of the length of above. Regrettably, these fears appear to be borne out, based on the information contained in many of the individual petitions received by the Head of the Mission.

9. As to generally accepted principles of international law concerning the granting of citizenship, Latvia is not in breach of international law by the way it determines the criteria for granting its citizenship. Nevertheless, bearing in mind the concrete situation of the non-Latvian resident population in Latvia, it would be desirable if Latvia, for humanitarian reasons, would extend its nationality to the majority of its permanent residents who express a desire to be loyal citizens of Latvia.

(b) <u>The registration process</u>

10. The main purpose of the ongoing registration process is to establish who are residents of Latvia. This will also serve as the basis for determining the status and the rights of the present population, and will determine who may become eligible for citizenship through naturalization, under a citizenship law to be enacted in the future.

11. More than 300 petitions received by the Head of the Mission concerned alleged arbitrary and discriminatory practices in the conduct of the registration process. A common theme was that people were denied the registration on the ground that they did not, for one reason or another, qualify for registration, or their period of residence in Latvia was reduced on the basis of the regulations enacted by the Department of Citizenship and Immigration.

12. Should the above allegations be true it is the Regulations of the Department of Citizenship and Immigration and, apparently, abuse of power by officials of the Department, that result in discriminatory practices against some non-ethnic Latvian population of the country. This is a genuine issue of concern that should be addressed in all seriousness by the Government, in the interest of continued harmonious ethnic relations in the country.

(d) The Language law

13. The language law itself is not incompatible with international law nor with generally accepted human rights standards, even if they cause a degree of hardship or inconvenience to the non-Latvian speaking population. Moreover, affirmative steps taken by the Latvian authorities to promote the use of the Latvian language do not violate these norms, and go along with the respect of minority languages.

14. Whereas the generalized use of the Latvian language does not seem to pose a problem, the requirement to take language examinations does, especially in connection with the granting of citizenship through naturalization, and in relation to some access to public employment and education. In this context many non-Latvian speakers perceive language examinations as a form of harassment.

15. The mission received information from non-Latvians claiming that State-subsidized language courses had been established only within large State enterprises, and that private courses were very expensive. Moreover, the methodology of language training has been described as poor and it is reported that in some governmental agencies proficiency tests have been abandoned because they were considered to be too complicated.

16. The Mission would suggest that the Latvian authorities take appropriate measures to ensure that the procedures of training and examination are conducted with flexibility, patience, objectivity, clarity and under the best possible technical conditions.

(e) Property

17. According to information received, it appears that citizens will enjoy preferential treatment in receiving a greater number of privatization certificates than non-citizens. Many letters received by the mission reveal the anxiety of the non-Latvian population that they might be excluded from the privatization process and might not even be able to acquire the apartments where they currently reside.

18. In this context it should be noted that Article 17 of the Universal Declaration of Human Rights enunciates right to property. However, it is generally agreed that the right to property is subject to reasonable restrictions.

(g) Freedom of Movement

19. Residents of Latvia, whether citizens or non-citizens, have equal freedom of movement in the territory of Latvia. No cases have been reported that non-Latvian citizens temporarily leaving the territory of Latvia have been denied reentry.

20. However, Article 10 of the Constitutional Law of 10 December 1991 on the Rights and Obligations of a Citizen and a Person, provides that "Citizens have the right to freely leave Latvia and to freely return to Latvia" which may imply that the non-citizens do not enjoy the right to return to Latvia. Denial of reentry would not only cause undue hardship to the person concerned, but could, for example, entail a violation of Article 23 of the International Covenant on Civil and Political Rights, which protects the family unit, if a person were thus separated from his family.

Conclusions and Recommendations

21. Latvia is going through a transitional period following the reestablishment of independence. During this period the Latvian government is endeavouring to redress certain historical inequities and injustices perpetrated during Soviet rule from 1940 to 1991.

22. This has given rise to anxiety among the non-ethnic Latvians about their future status and role in the country. It is this sense of insecurity rather than any gross violation of human rights that is most characteristic of the situation prevailing in Latvia today.

23. The information received and examined by the Mission does not reveal gross and systematic violations of human rights in Latvia. Individual violations which have been reported are limited

and not related to discriminatory policy as such and they should and can be remedied at the appropriate level. On the positive side, it should be emphasized that no instances of violence, no mass dismissals from employment, exclusion from educational establishments, evictions from apartments, or expulsions were reported.

24. A large percentage of the residents of the country do not yet have Latvian citizenship, and they fear marginalization. Whereas citizens of the former Soviet Union may obtain Russian citizenship on request, many of them do not wish to do so, since they intend to continue living in Latvia. Questionable administrative regulations and administrative practices in the conduct of the ongoing registration of the population are worrisome, as they would appear to reveal discrimination against some individuals belonging to the non-indigenous population. These individuals seem to have been arbitrarily prevented from registering their residence in Latvia, thus excluded from qualifying for naturalization, or the duration of their residence is recognized to a lesser degree than appears reasonable and just, with the effect that they no longer fulfil the anticipated residence requirement for naturalization. Another consideration is the relationship between citizenship and economic rights, in view of the risk that non-citizens may be deprived of economic opportunities.

25. So far no one has as yet been deprived of citizenship and no segment of the population has been disenfranchised. On the other hand, the fear of marginalization by denial of citizenship and of fundamental rights related to it is real and in some cases well founded. This creates a situation which is not conducive to harmonious inter-ethnic relations and as such poses a potentially destabilizing factor.

26. The apparent openness of both the Latvian authorities and the minorities to proposals by the United Nations gives reason for optimism regarding the possibility of finding compromise solutions. In this context, the following concrete recommendations may help achieve not only reconciliation and coexistence but also fruitful cooperation in a multi-cultural society:

(a) The citizenship law should be adopted at an early date, so that persons can regularize their status.

(b) Before its adoption, the citizenship law should be amended so as to lower the residence requirement from 16 years to 5 years. It is desirable that this requirement not be adversely affected by temporary sojourn abroad or by civilian employment with the military. This reduced duration of 5 years would

have a very positive psychological effect on non-Latvian minorities and would certainly contribute to the consolidation of inter-ethnic harmony.

(c) All rules and regulations governing the conduct of the ongoing registration process should be made public and widely distributed. As far as possible, they should be publicized before adoption and the opportunity offered for consultation through public hearings. Criteria for registration should be drafted in clear and precise language so as to prevent arbitrariness in their application. Particular attention should be given to all cases and instances of alleged irregularities in the conduct of the registration process and these should be reviewed on a case by case basis.

(d) The Latvian authorities should, in practice, grant non-citizens at the minimum those rights enunciated in the UN General Assembly Declaration on the Rights of Individuals not Nationals of the State in which they live.

(e) As to the language requirement, basic knowledge of Latvian should suffice to obtain citizenship. Residents over 50 years of age should be exempted from language tests for naturalization purposes. This does not preclude more stringent language requirements in connection with applications for specific job opportunities. Bearing in mind that Latvian is the State language and that official documentation is in Latvian, non-Latvian speaking residents will find it in their own interest to learn the language as soon as possible.

(f) In the context of the privatization of land, houses and apartments, the property rights of Latvian citizens in 1940 and their descendants should normally take priority. Compensation for improvements effected by subsequent occupants should be envisaged.

(g) Non-Latvians should not be excluded from the privatization process. For instance, if they do not immediately qualify for obtaining ownership of the apartments which they occupy, a grace period should be granted until they can qualify. The Law on Privatization should envisage the establishment of a Commission to examine individual cases.

(h) Preventive measures should be taken to avoid any increase in tensions between the ethnic Latvian and the non-ethnic population in Latvia. In particular, the

Consultative Commission on National Minorities should start operating as soon as possible and assume responsibility for examining any allegations of discrimination. Moreover, incitement to ethnic prejudice should be prohibited by law, as required by Article 20, paragraph 2, of the International Covenant on Civil and Political Rights.

(i) The Latvian government, which has already acceded to the International Covenant on Civil and Political Rights, should consider accession to the Optional Protocol, so as to allow all persons under its jurisdiction the possibility of examination of their individual cases by the United Nations Human Rights Committee, following exhaustion of domestic remedies.

(j) The United Nations should be prepared to provide advisory services and technical assistance in various areas. A consultative services agreement with the UN Centre for Human Rights may prove useful.

(l) UNESCO, through UNDP, could be called on to give technical assistance in the field of organizing the methodology of teaching and criteria of examination in Latvian language for the non-Latvian speaking part of the population.

(m) The Centre for Human Rights could be called on to provide technical assistance in the context of dissemination of human rights documentation, training public officials dealing with human rights problems, drafting human rights legislation, monitoring elections, and to establish contacts with the Consultative Nationalities Council for review of cases of alleged discrimination.

(n) Political contacts between Latvian and Russian authorities should be encouraged by the United Nations in order to seek a peaceful settlement of economic, military and social bilateral problems, including the question of the withdrawal of Russian military forces from Latvia.